

Application No. 10/790,300  
Amendment dated December 6, 2007  
Reply to Office action of July 10, 2007

## REMARKS/ARGUMENTS

This amendment is in response to the Office action dated July, 10, 2007.

Applicant submits a petition and appropriate fee for a two month extension of time

### Allowable Subject Matter

Applicant notes that the Examiner allowed claims 1-3.

### Claim Rejections

The Examiner rejected claim 4 as being unpatentable over DeSousa in view of Ekstein. Applicant traverses the rejection. The Examiner cannot establish *prima facie* obviousness. In order to establish *prima facia* obviousness all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974), as cited in *The Manual of Patent Examining Procedures* §2143.03 (2001 ed) (emphasis added). In this case, the *prima facia* case fails because the cited references, either alone or in combination, do not teach or suggest all the claim limitations, particularly as amended. By way of example, the combination of DeSousa and Ekstein does not teach or suggest a punching bag having a cover and filler material with a plurality of compressible pneumatic targets on the cover and including a whistle. As the Examiner noted, DeSousa does not disclose a whistle of any type. Ekstein teaches a noise making elements inside the face of the garment, i.e. inside the nose, inside the chin, etc. (col. 3, lines 57, 58 "a sound maker 41 (shown in Fig. 4) in the nose 4 of the boxer"; col. 5, lines 60-62 "the sound maker is described and shown as being

Application No. 10/790,300  
Amendment dated December 6, 2007  
Reply to Office action of July 10, 2007

located in the boxer's nose, it may just as easily be located in the chin... ".) Hence, the combination of references does not disclose or suggest a plurality of compressible targets on the cover connected to a whistle. Hence, claim 4 is allowable over the references.

The Examiner rejected claim 5 as being anticipated by Cohen. Applicant respectfully traverses the rejection. Cohen does not disclose each and every element of claim 5, particularly as amended. Cohen does not disclose a punching bag having a cover and a filler. Cohen's "bag" is actually a rubber bulb, which is empty and does not have a filler. Cohen does not even suggest such a construction since Cohen's bulb teaches away from a punching bag with a filler. In any event, Cohen does not disclose all the elements of claim 5 and the claim is allowable over the art.

Applicant respectfully requests reconsideration of claims 4 and 5, allowance of all the claims and passage of the case to issue.

Respectfully submitted,

POLSTER, LIEDER, WOODRUFF, & LUCCHESI, L.C.

By

  
Ned W. Randle, Reg. No. 35,989  
Polster, Lieder, Woodruff & Lucchesi, L.C.  
Customer Number: 01688  
12412 Powerscourt Drive, Suite 200  
St. Louis, Missouri 63131  
Tel.: (314) 238-2400  
Fax: (314) 238-2401